



California Regional Water Quality Control Board Lahontan Region



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Arnold Schwarzenegger
Governor

June 5, 2007

TO ALL CONCERNED PERSONS AND AGENCIES:

WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR GRAZING OPERATIONS IN THE EAST WALKER RIVER WATERSHED (BRIDGEPORT VALLEY AND TRIBUTARIES) OF THE LAHONTAN REGION

Enclosed please find the Agenda Item containing materials for a proposed conditional waiver pertaining to regulation of discharges of waste to waters of the State for grazing operations in the East Walker River Watershed within the Lahontan Region.

Comments on the draft waiver were received by May 29, 2007. In addition to some minor editorial changes, the waiver has been modified based primarily on comments received, as follows:

Waiver Findings Section 11 "Dischargers" – language added to restrict the current waiver to private grazing landowners, not Federal land managers. The Water Board will work with Federal agencies in the watershed to develop a waiver appropriate for them.

Waiver Findings Section 13 "Compliance Schedule" – language added to clarify that the fecal coliform milestone required at the end of the proposed five-year waiver is an interim goal, to be reviewed when the waiver is up for renewal, consistent with California Water Code Section 13263(c).

Waiver Findings Section 16 "Technical and Monitoring Reports" – language added to clarify the need for technical reporting to assure compliance.

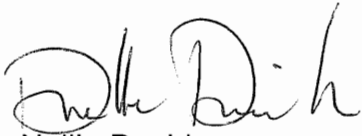
Resolution Section 2a "Inventory and Plan" – section rewritten to provide more detail concerning the requirements of the Ranch Water Quality Plan.

Resolution Section 7 "Training Incentives" – language added to clarify who may attend the training, the nature of the training, and how often training must be attended.

The Water Board will consider adopting the proposed waiver at the meeting set for June 13-14, 2007 in Bishop, California.



Should you have any questions or wish to discuss this matter, you may contact Bruce Warden at (530) 542-5416.

A handwritten signature in cursive script, appearing to read "Nellie Davidson".

Nellie Davidson
Office Technician

Enclosure: Agenda Item

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF JUNE 13-14, 2007
Bishop**

ITEM: 1

SUBJECT: **WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR
GRAZING OPERATORS IN THE BRIDGEPORT AND EAST
WALKER RIVER WATERSHEDS, MONO COUNTY**

ISSUES: Should the California Regional Water Quality Control Board, Lahontan Region (Water Board) adopt the Waiver of Waste Discharge Requirements for Grazing Operators in the Bridgeport and East Walker River Watersheds?

Should the Water Board accept the Monitoring and Reporting Program (MRP) for the Waiver of Waste Discharge Requirements for Grazing Operators in the Bridgeport and East Walker River Watersheds?

DISCUSSION: Discharge of nonpoint source pollution from agricultural grazing operations, within the Lahontan Region is considered to be a discharge of waste that could affect the quality of waters of the State, as defined in Section 13260 of the California Water Code. Potential water quality degradation from grazing activities has not been regulated prior to this (other than occasional enforcement action) but the State Water Resources Control Board 20 May, 2004 *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires that all sources of nonpoint source pollution be regulated through Waste Discharge Requirements (WDR), through waivers to WDRs, or through prohibitions.

The purpose of the Waiver is to set conditions for implementation of grazing operation management practices (MPs) which result in improved water quality in receiving waters.

The grazing waiver will be applicable to all existing private grazing operations in the Bridgeport Hydrologic Area (HU No. 630.30) encompassing the East Walker River above Bridgeport Reservoir in the Bridgeport Valley and the East Walker Tributaries Hydrologic Unit (HU No. 630.40) encompassing Clearwater Creek, Virginia Creek, Green Creek, Long Valley Creek, Swauger Creek, and Robinson Creek. Water Board staff met with US Forest Service (USFS) staff to discuss the grazing waiver and MRP and decided this waiver will not apply to the grazing activities on federal land. Water Board Staff currently has no evidence of water quality violations associated with grazing activities on federal land in this watershed. Federal agencies

require allotment management plans and annual reporting. However, Water Board staff will review the Federal program in these watersheds to assess improvements to the existing Federal program needed to protect water quality and whether a waiver or waste discharge requirements are necessary.

Water Board staff met with members of the Bridgeport Ranchers Organization (BRO) on March 28, 2007 to discuss the draft grazing waiver and the draft MRP. Based on this and other discussions, BRO may prefer to coordinate individual grazing water quality monitoring plans and submit them together with an overall plan for coordinated implementation of grazing management practices in the watershed with the goal of meeting the water quality milestone set in the waiver. Water quality monitoring, Management Practice (MP) implementation, compliance with time schedule milestones, and annual reporting under the MRP may be coordinated by BRO on a watershed level, though individual ranching operations in the watershed are the responsible parties under the Waiver.

BRO participated in a voluntary monitoring program during the 2006 grazing season, sampling at a frequency of every two weeks. The BRO requested that the monitoring frequency be reduced to every four weeks under the proposed MRP. Water Board staff considered this proposal, but suggested that a more frequent monitoring frequency would be in the interest of BRO in that it would greatly enhance the statistical probability that BRO data is compliant with Water Board fecal coliform concentration requirements (the proposed waiver has a milestone of 200 fecal coliform per 100mL after four seasons of sampling under the waiver time schedule). Water Board staff dropped the proposed requirements for nutrient analysis and for groundwater sampling, since fecal coliform is a better indicator of grazing activities. Water Board staff recommends a monitoring frequency of every two weeks as a reasonable compromise, since the Basin Plan recommends a sampling frequency of five times per 30 day period.

Written comments were due May 29, 2007 and comments received by that date are included. Water Board staff will respond to comments under separate cover.

RECOMMENDATION:

Adoption of the Order as proposed.

- Enclosures:
1. Waiver of Waste Discharge Requirements for Grazing Operators in the Bridgeport and East Walker River Watersheds with attachments
 2. May 29, 2007 letter from Bill Thomas
 3. Response to comments (under separate cover)

ENCLOSURE 1

01-0003

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

RESOLUTION NO. R6T-2007-(Proposed)

**WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR
GRAZING OPERATIONS IN THE EAST WALKER RIVER WATERSHED
(BRIDGEPORT VALLEY AND TRIBUTARIES) OF THE LAHONTAN REGION**

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board), finds:

1. Waste Discharge Requirements

- a. California Water Code section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board, unless the requirement is waived pursuant to Section 13269.
- b. The Water Board has a statutory obligation to prescribe waste discharge requirements except where the Water Board finds that a waiver of waste discharge requirements for a specific type of discharge is consistent with any applicable state or regional water quality control plan and is in the public interest pursuant to Water Code Section 13269.
- c. Water Code section 13269 provides that any such waiver of waste discharge requirements shall be conditional, must be updated every five years, and may be terminated at any time by the Water Board.

2. Monitoring Under Waivers to Waste Discharge Requirements

Water Code section 13269 was amended effective 1 January 2005. Water Code section 13269 now includes the following provisions:

- a. The waiver shall include the performance of individual, group, or watershed-based monitoring, unless the Water Board determines that the discharges do not pose a significant threat to water quality.
- b. Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the Water Board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors.

- c. Monitoring results must be made available to the public.
- d. The Water Board may include as a condition of a waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board). At the time of this hearing, the State Water Board has not established annual fee regulations with respect to grazing operations.
- e. The Waiver requires compliance with monitoring conditions consistent with the amendments to Water Code section 13269.

3. Basin Plan

On March 31, 1995, the Water Board adopted a Water Quality Control Plan for the Lahontan Region (Basin Plan) that establishes beneficial uses, water quality objectives, waste discharge prohibitions, and implementation policies that apply to waters of the State and discharges to waters of the State within the Lahontan Region.

4. Fecal Coliform Water Quality Objective

The Water Board has set the Region-wide water quality objective for fecal coliform ten times more stringent than Federal standards and any other Region in California, recognizing that waters in the Lahontan Region are generally pristine, and recreation is the major use of these waters. However, during the Grazing workshop and Triennial Review of the 11 October, 2006 Water Board meeting, the Water Board heard public comments regarding revising the fecal coliform standard to be consistent with Federal standards for areas, such as Bridgeport Valley, where beneficial uses have historically been predominantly agricultural. If, during the time of this Waiver, the Water Board has sufficient information to propose a Basin Plan Amendment for fecal coliform, Waiver conditions, milestones, and timelines may be revised accordingly.

5. Nonpoint Source Implementation and Enforcement Policy

The discharge of nonpoint source pollution from agricultural grazing operations, within the Lahontan Region is considered to be a discharge of waste that could affect the quality of waters of the State, as defined in Section 13260 of the California Water Code. Potential water quality degradation from such grazing activities has not been regulated prior to this, but the State Water Resources Control Board 20 May, 2004 *Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program* (NPS Policy) requires that all sources of nonpoint source pollution be regulated through Waste Discharge Requirements (WDR), waivers to WDRs, or prohibitions.

The NPS Policy encourages the Water Board "to be as creative and efficient as possible in devising approaches to prevent or control NPS pollution." This includes development of third-party programs, including coalitions of Dischargers, such as the Bridgeport Rancher's Organization (BRO). The BRO has been active in volunteer

monitoring of surface water quality and assessment of management practice (MP) effectiveness in the Bridgeport Valley beginning in April of 2006, with assistance from University of California Cooperative Extension (UCCE) staff and input from Water Board staff.

Section 13242 of the California Water Code requires that programs of implementation for achieving water quality objectives shall include, but not be limited to:

- a. A description of the nature of actions which are necessary to achieve the objectives, including recommendations for appropriate action by any entity, public or private.
- b. A time schedule for the actions to be taken.
- c. A description of surveillance (monitoring) to be undertaken to determine compliance with objectives,

Section 13263(c) of the California Water Code further stipulates that time schedules are subject to revision at the discretion of the board.

The NPS Policy further refines the requirements of CWC Section 13242, requiring that Waiver enrollees prepare and execute an implementation plan and monitoring plan that does the following:

- States the purpose of the plan such that NPS pollution is addressed in a manner that ultimately achieves and maintains water quality objectives and beneficial uses, including any applicable antidegradation requirements.
- Includes a description of the MPs and other program elements that are expected to be implemented to ensure attainment of the implementation program's stated purpose(s), the process to be used to select or develop MPs, and the process to be used to ensure and verify proper MP implementation.
- Includes a time schedule to achieve water quality requirements, and corresponding quantifiable milestones designed to measure progress toward reaching the specified requirements. The Porter-Cologne Act (CWC §13242[b] and § 13263[c]), the NPS Program Plan, and the NPS Policy recognize that there are instances where it will take time to achieve water quality requirements. The effort may involve all or some of various processes, including: identification of measurable long term and interim water quality goals; a timeline for achieving these goals; identification and implementation of pollution control MPs; provision for maintenance of the implementation actions; provision for additional actions if initial actions are inadequate; and, in the case of third-party organizations, identification of a responsible third-party to lead the efforts.

- Includes sufficient feedback mechanisms (monitoring) so that the Water Board, Dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different MPs or other actions are required. It will describe the measures, protocols, and associated frequencies that will be used to verify the degree to which the MPs are being properly implemented and are achieving the program's objectives, and/or to provide feedback for use in adaptive management. These efforts are necessary to determine whether the program is on time and on track in achieving its goals.

6. Receiving Water Beneficial Uses

Pursuant to the Basin Plan and State Board Plans and Policies, including State Water Board Resolution No. 88-63, the existing and potential beneficial uses of waters potentially affected by the proposed activity include:

- a. Agricultural Supply (AGR)
- b. Cold Freshwater Habitat (COLD)
- c. Commercial and Sportfishing (COMM)
- d. Freshwater Replenishment (FRSH)
- e. Ground Water Recharge (GWR)
- f. Municipal and Domestic Supply (MUN)
- g. Water Contact Recreation (REC-1)
- h. Non-contact Water Recreation (REC-2)
- i. Spawning, Reproduction, and Development (SPWN)
- j. Wildlife Habitat (WILD)

7. Maintenance of High Quality Waters in California

State Water Board Resolution 68-16 ("Statement of Policy with Respect to Maintenance of High Quality Waters in California") requires the Water Board to regulate discharges of waste to waters of the state to achieve the highest water quality consistent with maximum benefit to the people of the State. It further requires that the discharge meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and that the highest water quality consistent with maximum benefit to the people of the State will be maintained. This Waiver is consistent with Resolution 68-16 because it requires compliance with applicable water quality control plans, in accordance with a time schedule, and sets forth conditions that require Dischargers to implement additional management practices to assure protection of beneficial uses of waters of the state and maintain the highest water quality consistent with maximum benefit to the people of the State.

8. California Environmental Quality Act

The Water Board, is the lead agency for this project under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) (CEQA). The Water Board adopted a negative declaration pursuant to CEQA (Public Resources Code section 21000 et seq.) on June 13, 2007.

9. Grazing Waiver Strategy

The adoption of general or individual waste discharge requirements for all grazing operations in the Lahontan Region is not feasible at this time. Given the number of Water Board staff and other factors, it is not feasible for the Water Board to adopt many individual waste discharge requirements in a year. The Water Board is pursuing a policy of adopting waivers to WDRs on priority watersheds as staffing allows.

10. Grazing Operation Definition

The term "grazing operation" is defined as a facility where animals are fed or maintained on irrigated vegetation or rangeland forage for a total of 45 days or more in any 12 month period, and vegetation forage growth is sustained over the lot or facility during the normal growing season.

11. Dischargers

This grazing waiver is applicable to all existing private landowners and their operators conducting grazing operations on private lands in the Bridgeport Hydrologic Area (HU No. 630.30) encompassing the East Walker River above Bridgeport Reservoir in the Bridgeport Valley and the East Walker Tributaries Hydrologic Unit (HU No. 630.40) encompassing Clearwater Creek, Virginia Creek, Green Creek, Long Valley Creek, Swauger Creek, and Robinson Creek. Grazing activities on Federal land are not covered by this waiver. Federal agencies require allotment management plans and annual reporting. Water Board staff will review the Federal program to assess improvements to the existing Federal program needed to protect water quality and whether a waiver or waste discharge requirements are necessary in the future.

12. Existing Water Quality Impairments

Several waterbodies within the Bridgeport Hydrologic Area and Bridgeport Valley and the East Walker Tributaries Hydrologic Area are listed as water quality impaired for pathogens (fecal coliform) under Section 303 (d) of the Federal Clean Water Act. These include: Buckeye Creek, East Walker River above Bridgeport Reservoir, Robinson Creek, and Swauger Creek. Current water quality information provides evidence that grazing operations continue to contribute to fecal coliform concentrations above the water quality objectives in these streams.

13. Compliance Schedule

Because of water quality impairments from elevated fecal coliform concentrations, the Water Board is establishing a time schedule for compliance in the Waiver. Ranch Water Quality Management Plans must be developed and implemented to reduce fecal coliform concentrations in surface waters downstream of grazing operations. The interim goal is to achieve a thirty-day average log-normalized fecal coliform concentrations downstream of grazing operations in the Bridgeport Valley of

no more than 200 fecal coliform/100 mL within four grazing seasons after execution of the Waiver. Because the waiver expires in five years and staff have determined compliance with water quality objectives is not reasonable within this time frame, an interim milestone is needed to track measurable progress towards the objective.

14. Intent to Issue Waiver

California Water Code Section 13269 allows Water Boards to waive submission of Reports of Waste Discharge (ROWDs) and/or issuance of Waste Discharge Requirements (WDRs) if it is in the public interest. CWC Section 13269 authorizes the Water Board to waive WDRs for a specific discharge or specific types of discharges if the following conditions are met: 1) the waiver is in the public interest, 2) the waiver is conditional, 3) waiver conditions include performance of individual, group, or watershed-based monitoring, 4) compliance with waiver conditions is required, and 5) a public hearing has been held. The term of the waiver cannot exceed five years, but the Water Board can renew a waiver after holding a public hearing. The Water Board may terminate a waiver at any time. Relevant factors in determining whether a waiver is in the public interest include the following: whether the Discharger is implementing reasonable practices to minimize the deleterious effects of the discharge; whether a feasible treatment method or set of management practices exist to control the pollutants in the discharge; and whether waiving ROWDs and/or WDRs will adequately protect beneficial uses while allowing the Water Board to focus its limited resources to conduct field oversight, public outreach and, where necessary, enforcement.

The adoption of the Waiver is in the public interest because 1) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect beneficial uses of the waters of the State, 2) it contains more specific conditions for protection of water quality compared to other regulatory options, 3) it provides a more efficient and more timely mechanism of complying with water quality objectives than other regulatory options, 4) it provides for an efficient and effective use of limited Water Board resources, 5) it provides flexibility for Dischargers by providing an option of complying through a third-party entity and allows for less costly and more effective cooperative monitoring, 6) it enhances beneficial uses of water and enhances sustainability of ranching operations in the Bridgeport Valley, and 7) the Water Board does not currently regulate discharges of waste from ranching operations in the Bridgeport Valley--this Waiver will result in regulation of non-point source discharges from these operations, and will result in measurable water quality improvements in accordance with the time schedule in the Waiver. The Water Board has notified the Dischargers and all known interested agencies and persons of its intent to issue a Waiver of Waste Discharge Requirements for the Project.

15. Public Meeting

The Water Board conducted a public hearing on June 13, 2007 in Bishop, California, and considered all testimony and evidence concerning this matter.

16. Technical and Monitoring Reports

Water Code section 13267, subdivision (b) provides that "In conducting an investigation specified in subdivision (a), the Water Board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposed to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the Water Board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the Water Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

The Discharger operates the facility that discharges the waste subject to this Waiver. The wastes contain fecal coliform bacteria and discharges cause or contribute to violations of the Basin Plan water quality objective for fecal coliform bacteria. Therefore, the technical reports required by this Waiver and the Monitoring and Reporting Program are necessary to assure compliance.

THEREFORE BE IT RESOLVED: Pursuant to Water Code, section 13269 subdivision, (a) Waste Discharge Requirements may be waived for grazing operations in the Bridgeport Valley and the East Walker Tributaries area pursuant to the following conditions.

1. Eligibility for Coverage

Operators of grazing lands that meet all of the following are eligible for coverage under this waiver:

- a. Grazing operations are in existence as of June 13, 2007;
- b. The Discharger shall submit a complete Grazing Waiver Application (Attachment A) and a Ranch Water Quality Management Plan (see Section 2 below), by **December 15, 2007**.
- c. The Discharger is required to renew its eligibility every 5 years by submitting a completed Notice of Intent.

2. Inventory and Plan

- a. The Discharger is required to submit a copy of a completed Ranch Water Quality Management Plan by **December 15, 2007** and have a copy of the plan at the ranch office and available for review by Water Board staff at all times. Elements of this Plan shall include:

- i. A scaled facility map including, as applicable: property perimeter, buildings, roads, fences, land use designations (crops, grazed areas, woodlands, paddocks, irrigation control structures, confined areas, feeding areas, water troughs, exclusion areas both permanent and seasonal etc.), topography, creeks, and livestock crossings.
 - ii. A description of water quality management practices currently in place (e.g. off-stream watering, vegetative buffer strips, hardened stream crossings, wetland treatment areas, exclusion fencing) and their locations.
 - iii. An assessment of the current facility conditions including potential water quality problem areas and proposed corrective management practices for the upcoming grazing season.
 - iv. Ranch Water Quality Management Plan objectives, including improvements in practices to reduce, and/or maintain fecal coliform concentrations in local surface waters so that it ultimately achieves requirements of the *Water Quality Control Plan for the Lahontan Region*, including water quality objectives and beneficial uses for Bridgeport Valley tributary streams.
- b. The Ranch Water Quality Management Plan shall include a description of all management practices currently implemented within the ranch facility and an implementation schedule for:
- i. Reducing to the maximum extent practicable, delivery of pathogens from ranching lands to surface waters. The plan is to consider control of animal access to surface waters, placement of animal crossings to minimize pathogen runoff into surface waters, and development of vegetative filter strip buffers to treat sheet flow runoff.
 - ii. Newly selected water quality management practices (e.g. buffer strips, fences) at all identified points of discharge.
 - iii. Grazing management structural improvements.
 - iv. Changes in livestock management methods (e.g. herding, riparian rotation).
 - v. Road erosion control and prevention actions.
 - vi. Actions to avoid or reduce management-related increases in erosion of unstable areas.
 - vii. Manure management and disposal operations to prevent runoff containing wastes from entering surface waters, if applicable.

- c. The Ranch Water Quality Management Plan shall also include a plan for compliance inspection and reporting that demonstrates the proposed management practices are being implemented (see section IV.3 below).

3. Implementation

The Discharger shall meet the Waiver Conditions by implementing water quality management practices that reduce nonpoint source pollution and protect water quality. In selecting what management practices to use at each pasture, the Discharger must take into consideration existing water quality, vegetation, terrain, type of livestock and general facility operation procedures. A list of possible management practices the Discharger may choose to implement at the facility may be found in the *Natural Resource Conservation Service Field Office Technical Guide*.

4. Compliance Reporting

All Dischargers must conduct visual inspections and submit annual reports in accordance with Monitoring and Reporting Program No. R6T-2007-XXXX. The Discharger must implement a Ranch Water Quality Management Plan intended to reduce fecal coliform concentrations. By **December 15, 2011**, the Discharger must submit a report showing fecal coliform concentrations downstream of operations meeting less than 200 fecal coliform/100mL.

5. General Waiver Conditions

In accordance with the above time schedule in No. 4, the following conditions apply:

- a. The Discharger shall not cause or contribute to conditions of pollution or nuisance as defined in CWC Section 13050.
- b. The Discharger must comply with all requirements of applicable water quality control plans.
- c. The Discharger shall not cause or contribute to exceedances of any Regional, State, or Federal numeric or narrative water quality standard.
- d. This Conditional Waiver does not authorize the discharge of any waste not specifically regulated under this Order. Waste specifically regulated under this Order includes: livestock wastes and fecal coliform bacteria. Examples of wastes not specifically regulated under this order include hazardous materials and human wastes.
- e. Groundwater influenced by irrigation activities and livestock management shall be of such quality so as to assure protection of all actual or designated beneficial uses.

- f. Water Board Inspections – Water Board staff may perform facility inspections and/or take compliance water samples at any time with a minimum 48-hour prior notification to the Discharger.

6. Water Quality Monitoring

Water quality monitoring and reporting of wastes discharged must be performed on a site specific or watershed basis. The Discharger may do so individually, or in cooperation with other similar Dischargers in the watershed with approval from the Water Board Executive Officer. See Attachment B – Monitoring and Reporting Plan for East Walker River Watershed.

7. Training Incentives

Dischargers, or their ranch manager/ranch operator, who attend a Ranch Water Quality Training Course every five years offered by the Natural Resource Conservation Service (NRCS), University Cooperative Extension, or other equivalent training entity approved by the Water Board Executive Officer, will only be required to submit certifications of compliance every two years.

8. Termination Procedures

- a. In the event of closure or change in land use of the Discharger's facility, the Discharger shall notify the Water Board, in writing.
- b. In the event of any change in operation control, or ownership of land or waste discharge facilities, the Discharger shall immediately notify any succeeding Discharger of its responsibility to comply with this waiver. A copy of such notice shall be submitted to the Water Board in order for the original Discharger to be relieved of its responsibility to comply with this waiver. In order to continue the discharge pursuant to this waiver, the succeeding Discharger must submit a completed NOI to the Water Board within 21 days of receipt of such notice, and receive approval by the Water Board Executive Officer.

9. Failure to Comply with Terms and Conditions of this Waiver

- a. Dischargers who fail to comply with the terms and conditions of this Waiver shall be subject to appropriate enforcement action. Discharges that could affect the quality of the waters of the State may commence only in accordance with Water Code Section 13264(a). The Water Board Executive Officer reserves the right to terminate individual's coverage under the waiver and can impose individual Waste Discharge Requirements after proper notice and hearing (Water Code Section 13263).

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Waiver adopted by the California Regional Water Quality Control Board, Lahontan Region, on June 13, 2007.

HAROLD J. SINGER
EXECUTIVE OFFICER

Attachments: A. Grazing Waiver Application
B. Monitoring and Reporting Program
C. General Provisions

Proposed

ATTACHMENT A

SECTION I. FACILITY OPERATOR INFORMATION

SECTION II LAND OWNER INFORMATION (IF OPERATOR IS NOT THE OWNER)

SECTION III. FACILITY INFORMATION * *Please fill out additional sheet(s) if Ranch Lands are not contiguous*

SECTION IV. ADDRESS FOR CORRESPONDENCE

01-0016

SECTION V: RECEIVING WATER INFORMATION

Does your facility's storm water flow directly and/or eventually into waters of the State such as a stream, river, lake, irrigation flows, etc?

_____ Yes _____ No

If yes, name the receiving waterbodies: _____

SECTION VI. IMPLEMENTATION OF WAIVER CONDITIONS

CONDITIONS OF WAIVER FOR DISCHARGES FROM GRAZING LANDS

(check if true)

[] Facility is currently operating in compliance with Conditions of Waiver for Discharges from Grazing Lands

SECTION VII. Ranch Water Quality Plan (RWQP)

(check if true)

☐ A Ranch Water Quality Plan is maintained at ranch offices.

I have enclosed a RWQP YES [] I have previously submitted a RWQP YES [] DATE: _____

SECTION VIII. OWNER NOTIFICATION

If the OPERATOR is not the owner of the facility, the OPERATOR must certify that the owner of the facility has been notified of this waiver and its requirements.

Discharger's Printed Name: _____ Signature: _____

Title: _____ Date: _____

SECTION VII. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of the waiver, including the implementation of a Ranch Water Quality Plan, will be complied with."

Printed Name: _____ Signature: _____

Title: _____ Date: _____

ATTACHMENT B

Attachment B
R6T-2007-(Proposed)

**MONITORING AND REPORTING PROGRAM FOR
WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES RELATED TO GRAZING ACTIVITIES IN THE
EAST WALKER RIVER WATERSHED (BRIDGEPORT VALLEY AND TRIBUTARIES)**

I. Surface Water Sampling and Analysis

Sampling for Water Quality Constituents in the East Walker River Watershed, comprising the Bridgeport Valley and its tributaries, will be performed cooperatively by members of the Bridgeport Rancher's Organization (BRO), following the plan developed by the BRO, University of California Cooperative Extension (UCCE) staff, and Regional Board staff. This plan was used a voluntary monitoring program during the 2006 season.

1. Objectives of Surface Water Monitoring

- a. Determine fecal coliform concentrations in all tributaries entering and exiting the irrigated and grazed portions of Bridgeport Valley (B.V.).
- b. Analyze these data to identify source and sink areas for these pollutants in B.V., to prioritize implementation of water quality management measures to source areas, and to serve as a baseline against which to judge the effectiveness of future water quality management measures.

2. Surface Water Sites

Sample collection sites have been selected to isolate the irrigated and grazed portion of B.V. from surrounding land uses (e.g., sub-divisions, campgrounds, hot springs) and cover types (e.g., forest, sagebrush, alkaline flats). A sample collection site will be established on each tributary at the point it enters and exits the irrigated and grazed portion of B.V. Sample sites are listed in the Table 1.

Table 1. Sample Sites in the East Walker River Watershed, Bridgeport Valley

Site ID	Site Description
0	Swauger Creek above Huntoon Valley
1	Swauger Creek at USFS Boundary
2	Buckeye Creek at Upper Diversion
3	Robinson Creek at Upper Diversion
4	Virginia Creek at Gauging Station
5	Green Creek at Green Creek Road Crossing
6	Summers Creek Upper
7	Buckeye Creek above 395
8	Buckeye Creek above Reservoir
9	Robinson Creek above 395
10	Robinson Creek at Reservoir
11	E. Walker River above Highway 395

* GPS coordinates for each site must be collected once exact sample transect location is determined. These locations must be reported with the Ranch Water Quality Plan.

3. Sample Collection Frequency

Samples for fecal coliform will be collected at all sites twice per month starting approximately one month before grazing and irrigation, then every 2 weeks, at a minimum, during the irrigation and/or grazing season (Apr 15 through Oct). It is recommended that samples be taken more than the minimum, if practicable, since it will increase the probability of numerical compliance with the 30-day log-normalized average water quality objective, given the log-normally distributed nature of fecal coliform samples.

4. Water Sample Collection

Sample collections will be conducted by members of the BRO at sample sites located on or near their property. All participants shall be trained in sample collection (e.g., sub-sampling, bottle labeling, sample handling) to assure consistency and data quality. Note that additional water quality parameters may be performed by BRO at their discretion in cooperation with UCCE. This is encouraged, but only fecal coliform is required under this waiver to WDRs.

Sample collection dates will be established in coordination between BRO and the analytical laboratories. Samples from all sites will be collected in the early am on the same day, brought to a central collection point, and the one complete set of samples transported to a local laboratory for fecal coliform analysis as soon as possible following collection (same day).

Water sample collection will occur at a flowing, well mixed transect at each sample site. A 125 mL water sample will be collected into a sterile plastic bottle for indicator bacteria analysis (sample A and B). Each sample will be the composite of 3 sub samples (~40 mL) collected across the sample transect to integrate potential spatial variation at the site. All samples will immediately be placed on ice. The sample will be transported to a local laboratory for fecal coliform concentration analysis.

5. Analytical Determination of Fecal Coliform

Fecal coliform concentration will be determined by direct membrane filtration (0.45 µm) and incubation on a selective agar (SM 9222) or equivalent. Fecal coliform analysis will be performed at a laboratory certified in fecal coliform analysis by the California Department of Health Services (DHS), Environmental Laboratory Assessment Program (ELAP).

6. Reporting Requirements

a. Ranch Water Quality Management Plans

A Ranch Water Quality Management Plan, as described in the Waiver (Resolution No. R6T-2007-XXXX), is to be prepared and submitted to the Water Board by **December 15, 2007**.

b. Annual Report:

Water Quality data will be summarized and reported to the Water Board by **December 15** of each year following each sampling season.

Each ranch operation shall prepare an annual report each following season covering the following:

- i. BMPs implemented this past season.
- ii. Estimated effectiveness of installed BMPs.
- iii. Problems encountered, if any.
- iv. BMPs or animal management improvements considered for implementation next season.

The Bridgeport Ranchers Organization (BRO) may collect each individual ranch operation report and submit them as well as a summary of BRO activities the past season and plans for the next season, in lieu of individuals Dischargers submitting individual reports.

7. General Provisions

The Discharger shall comply with the "General Provisions for Monitoring and Reporting," dated September 1, 1994, which is attached to and made part of this Monitoring and Reporting Program.

II. Compliance Reporting

1. At a minimum, all the individual Dischargers must conduct visual inspections during the grazing season to verify that chosen management practices are being implemented, and the Grazing Conditions for Waiver, are being met. The Discharger shall:
 - a. Visually inspect the closest receiving water, upstream and downstream of each pasture, to monitor any change in water quality resulting from facility operations. This inspection is needed to determine the effectiveness of the management practices implemented at the ranch facility. Examples of changes in visual characteristics in water that may be indicative of the effects of grazing and/or grazing MPs include, but are not limited to: color, turbidity, floating material, algae concentration, etc.
 - b. Inspect facilities and management practices at the beginning of the grazing season and at least bimonthly during the grazing season. Any problems noted should be corrected as soon as practicable.
 - c. Problems noted, corrective actions taken, and any recommendations for improvements in management practices are to be reported in the annual report.
2. Records shall be maintained of the inspection dates, observations, and any response taken to eliminate potential sources of pathogens.
3. By December 15 each year, the Discharger must submit an annual certification to the Water Board that its facility is in compliance with the Ranch Water Quality Plan as verified by records of inspections above. Producers that attend the training in Section 7 of the Waiver (Board Resolution No. R6T-2007-XXXX) may submit certification every other year.
4. The Discharger shall report any noncompliance that endangers human health or water quality, within 24 hours of becoming aware of its occurrence. The incident shall be reported to the Water Board Office and to the California Office of Emergency Services (OES). During non-business hours, the Discharger shall leave a message on the Water Board's voice mail. The message shall include the time, date, and place of the discharge and shall be recorded in writing by the Discharger. The OES is operational 24 hours a day. A written report shall be submitted to the Water Board office within five (5) business days of the Discharger becoming aware of the incident. The written submission shall contain:

- a. The approximate date, time, and location of the discharge;
- b. A description of the noncompliance event and its cause;
- c. The rate, volume, and duration of the discharge;
- d. The period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- e. The steps taken to correct discharge and/or a time schedule and a plan to implement corrective actions necessary to prevent the recurrence of such discharges.

Ordered by: _____

Dated: _____

HAROLD J. SINGER
EXECUTIVE OFFICER

Attachment: C. General Provisions for Monitoring and Reporting

ATTACHMENT C

ATTACHMENT "C"
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

GENERAL PROVISIONS
FOR MONITORING AND REPORTING

1. SAMPLING AND ANALYSIS

- a. All analyses shall be performed in accordance with the current edition(s) of the following documents:
 - i. Standard Methods for the Examination of Water and Wastewater
 - ii. Methods for Chemical Analysis of Water and Wastes, EPA
- b. All analyses shall be performed in a laboratory certified to perform such analyses by the California State Department of Health Services or a laboratory approved by the Regional Board Executive Officer. Specific methods of analysis must be identified on each laboratory report.
- c. Any modifications to the above methods to eliminate known interferences shall be reported with the sample results. The methods used shall also be reported. If methods other than EPA-approved methods or Standard Methods are used, the exact methodology must be submitted for review and must be approved by the Regional Board Executive Officer prior to use.
- d. The discharger shall establish chain-of-custody procedures to insure that specific individuals are responsible for sample integrity from commencement of sample collection through delivery to an approved laboratory. Sample collection, storage, and analysis shall be conducted in accordance with an approved Sampling and Analysis Plan (SAP). The most recent version of the approved SAP shall be kept at the facility.
- e. The discharger shall calibrate and perform maintenance procedures on all monitoring instruments and equipment to ensure accuracy of measurements, or shall insure that both activities will be conducted. The calibration of any wastewater flow measuring device shall be recorded and maintained in the permanent log book described in 2.b, below.
- f. A grab sample is defined as an individual sample collected in fewer than 15 minutes.
- g. A composite sample is defined as a combination of no fewer than eight individual samples obtained over the specified sampling period at equal intervals. The volume of each individual sample shall be proportional to the discharge flow rate at the time of sampling. The sampling period shall equal the discharge period, or 24 hours, whichever period is shorter.

2. OPERATIONAL REQUIREMENTS

a. Sample Results

Pursuant to California Water Code Section 13267(b), the discharger shall maintain all sampling and analytical results including: strip charts; date, exact place, and time of sampling; date analyses were performed; sample collector's name; analyst's name; analytical techniques used; and results of all analyses. Such records shall be retained for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or when requested by the Regional Board.

b. Operational Log

Pursuant to California Water Code Section 13267(b), an operation and maintenance log shall be maintained at the facility. All monitoring and reporting data shall be recorded in a permanent log book.

3. REPORTING

- a. For every item where the requirements are not met, the discharger shall submit a statement of the actions undertaken or proposed which will bring the discharge into full compliance with requirements at the earliest time, and shall submit a timetable for correction.
- b. Pursuant to California Water Code Section 13267(b), all sampling and analytical results shall be made available to the Regional Board upon request. Results shall be retained for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding this discharge, or when requested by the Regional Board.
- c. The discharger shall provide a brief summary of any operational problems and maintenance activities to the Board with each monitoring report. Any modifications or additions to, or any major maintenance conducted on, or any major problems occurring to the wastewater conveyance system, treatment facilities, or disposal facilities shall be included in this summary.
- d. Monitoring reports shall be signed by:
 - i. In the case of a corporation, by a principal executive officer at least of the level of vice-president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates;
 - ii. In the case of a partnership, by a general partner;
 - iii. In the case of a sole proprietorship, by the proprietor; or

- iv. In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
- e. Monitoring reports are to include the following:
 - i. Name and telephone number of individual who can answer questions about the report.
 - ii. The Monitoring and Reporting Program Number.
 - iii. WDID Number.
- f. Modifications

This Monitoring and Reporting Program may be modified at the discretion of the Regional Board Executive Officer.

4. NONCOMPLIANCE

Under Section 13268 of the Water Code, any person failing or refusing to furnish technical or monitoring reports, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in an amount of up to one thousand dollars (\$1,000) for each day of violation.

ENCLOSURE 2

01-0028

Bruce Warden - Written Comment Letter re Lahontan Agricultural Waiver (AMENDED)

From: "William Thomas" <William.Thomas@BBKLAW.COM>
To: "Bruce Warden" <BWarden@waterboards.ca.gov>, "Harold Singer" <HSinger@rb6s.swrcb.ca.gov>, <lkemper@waterboards.ca.gov>
Date: 5/29/2007 4:35 PM
Subject: Written Comment Letter re Lahontan Agricultural Waiver (AMENDED)
CC: "David E. Wood" <davidewood@harrisranch.com>, <jdlacey@digitalputty.com>, <mjlacey@qnet.com.>

Following please find the amended written comment letter regarding the Lahontan agricultural waiver. Please disregard the prior one as it contained the word "draft" on it.

Additionally, we request that Mr. Singer please also provide the Board Members with this corrected version.

Thank you.

CENTENNIAL RANCHES DAVE WOOD RANCHES

25366 W. Dorris
Coalinga, CA 93210

Respond to:
William J. Thomas
Best Best & Krieger LLP
400 Capitol Mall, Suite 1650
Sacramento, CA 95814
(916) 325-4000

VIA ELECTRONIC MAIL

MEMORANDUM

TO: Bruce Warden, Ph.D., Environmental Scientist
Lahontan Regional Water Quality Control Board

Lauri Kemper, Division Manager
Lahontan Regional Water Quality Control Board

Harold Singer, Executive Officer
Lahontan Regional Water Quality Control Board

FROM: Bill Thomas

DATE: May 29, 2007

RE: LAHONTAN GRAZING WAIVER

We have received and reviewed the proposed waiver for Bridgeport Valley grazing. The waiver packet consists of a 10 page resolution, three attachments, and a five page monitoring and reporting proposal (MRP).

We find the proposed resolution (R6T-2007) to be generally reflective of the several meetings the Bridgeport ranchers have had with the Lahontan board staff and a marked improvement over some of the initial component drafts which were the subject of our several coordinating meetings over the last year and a half. We are most appreciative as to the

recognition of the Bridgeport Ranchers' Organization as an effective coalition (page 2, paragraph 5), the focus of the waiver on the identified water quality issue (fecal coliform), the recognition that the existing basin plan objective is tenfold more restrictive than other jurisdictions and, therefore, the waiver uses 200 colonies as the initial performance target.

We do find a few specific provisions which need further adjustment to make this waiver program reasonable and effective.

1. Whereas we recognize the waiver, (page 5, paragraph 13) sets an initial fecal coliform performance goal of 200 col / 100 ml. We believe the basin plan itself should be amended to retain the 20 col for the Tahoe area and perhaps other pristine waters, but for all agricultural areas the objective should be 200 col. There is no scientific basis and no basis in the basin plan adoption record to support a 20 col objective being applicable or enforceable outside Tahoe (the sole basis of the inclusion into the basin plan). Therefore, there is no reason to retain 20 col for agricultural areas and it would produce regulatory balance to make this amendment contemporaneously with imposing the waiver.
2. On page 6, paragraph 15, we note that you still intend to bring this to the Board for action on June 13th. We will fully participate, however, we are still of the opinion that this rushes the finalization of the waiver more than necessary.
3. Page 3, paragraph 2. The requirement of a ranch water quality management plan is far too detailed and therefore burdensome and needless. The offending provisions include the following:
 - (a) It is unclear what is intended by "inventory of resources," "assessment of conditions," and "description of ranch plan objectives." These should be eliminated.
 - (b) The "identification of each pasture" and "discharge points" are unreasonable and pointless. A ranch may have 30-50 pastures and if movable electric fences are utilized these may change within a season. It serves no purpose to go to this extreme detail.

Similarly "discharge points" is too unbounded and therefore burdensome.

It would be more appropriate to only require direct identification of "major discharge points to principle water sources." This would target perhaps a dozen or two principle discharge points rather than the perhaps 200 which would be caught up in the staff's draft. As to pastures, it could state "fences/pastures directly associated with key water bodies or utilized in water quality mitigation."

As an example, on our ranch it may be important to recognize the 10 pastures associated with our creeks and cattle management for water quality mitigation but not the 35 pastures not associated with the water quality issues.

The language in subdivision 2b calls for the identification "of all management practices currently implemented at each pasture." First of all, the above comments as to the overburden and lack of necessity to deal with all pastures is relevant in spades in this provision and an unbounded reference to all management practices is also overly broad. Management decisions/practices involve scheduling meetings, equipment, hiring, discipline, type cattle, numbers of cattle, grazing strategy, type of fencing, dealing with 10 – 14 governmental agencies (one of which is your Board), coordination with neighbors, loans, taxes, water strategy, etc., etc. Clearly you want to include only appropriate limiting factors (i.e., management practices relative to water quality).

4. Page 8, paragraph 3 also has the problem as addressed above (3c.), that references "management practices to use at each pasture." This needs to be stricken or amended.

01-0030

5. Page 9, paragraph 7. The reference to the NRCS/UC training courses needs clarification as follows: "Dischargers, or their ranch managers, who attend. . . ." Also, merely incentivizing from one to two years is insufficient, it should extend for four years.
6. Attachment A.III.6. We still object to requiring any "herd size" information, however, we do appreciate the breakdown by category.
7. Attachment A.VII. The ranch plan need not be required to be kept "on site" as it may be kept at the office with all other ranch and operation documents.
8. Attachment B. This page should have numbers or letters for clarity of reference. The third open box has some of the same problems as the waiver language (i.e, fences, pastures) but goes well beyond this by referencing any "troughs, drainages, crossings," etc. This is crazy overkill. We have hundreds of drainages and crossings most of which are completely irrelevant to the waiver. This language also needs modification to be made parallel to if not the same as the waiver language.
9. Attachment C. We appreciate the reference to the BRO coalition approach to satisfying the waiver monitoring requirements.
10. Page 1, Section I, 7.A. The words "and loads" need to be removed as the fecal objective is expressed as a concentration and no load data is monitored or recorded.
11. I.2. The monitoring sites, frequency, and protocol, have been agreed to and they are similar to that previously monitored by the ranchers coalition.

We have submitted these comments by the comment deadline but reserve the right of additional comments. Also, the Bridgeport Ranchers' Organization has not had the chance of a coordination meeting as to the proposal, therefore, believe you should extend the comment deadline to June 7 for that purpose.

Thank you for considering these few amendments.

cc: Lahontan Regional Water Board Members
David E. Wood
John Lacey
Mark Lacey

Bridgeport Ranchers
Lassen Grazing Group

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01-0031

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01-0032

ENCLOSURE 3

Under Separate Cover